

STATE OF MICHIGAN  
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS  
OFFICE OF FINANCIAL AND INSURANCE REGULATION

Before the Commissioner of the Office of Financial and Insurance Regulation

In the matter of

Travel Insurance Limited Line of Authority  
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Order No. 11-040-M

Issued and entered  
this 25<sup>th</sup> day of August 2011  
by R. Kevin Clinton  
Commissioner

**ORDER RECOGNIZING TRAVEL INSURANCE AS  
A LIMITED LINE OF AUTHORITY**

Background

Because certain insurance products are narrow in scope and complexity, thereby limiting the client base for that product, the Michigan Insurance Code recognizes those products as limited lines insurance. While "travel" is not specifically defined by Michigan statute as a limited line of authority, travel insurance is a limited insurance product that is generally only sold to persons purchasing a travel package from a travel agent. It may also be sold to someone making personal travel plans who seeks out an insurer or insurance producer to obtain insurance against certain risks associated with the planned travel.

It is a common practice for a travel agency to be associated with the sale of travel insurance by either offering insurance to a customer purchasing a travel package or by referring the customer to a producer or insurer via a website or telephone number. The practice varies widely, as does the compensation for referring, offering or selling travel insurance.

The National Association of Insurance Commissioners' (NAIC) Uniform Licensing Standards recommends that travel be considered a limited line of authority and that it include:

- a. Interruption or cancellation of a trip or event;
- b. Loss of baggage or personal effects;
- c. Damages to accommodations or rental vehicles;
- d. Sickness, accident, disability or death occurring during travel.

The NAIC also recommends that travel insurance not include major medical plans which provide comprehensive medical protection for travelers with trips lasting 6 months or longer, including, for example, those working overseas as an expatriate or as deployed military personnel.

The historical practice of the Office of Financial and Insurance Regulation (OFIR) has been to treat "travel insurance" as a limited line of authority. However, Michigan has not officially adopted travel as a limited line of authority. Moreover, because a person who sells, solicits, or negotiates insurance is required to be licensed as an insurance producer under Section 12 of the Insurance Code, MCL 500.1201 *et seq.*, applicants for travel insurance licensure in Michigan have been required to pass a general property and casualty examination as a prerequisite to licensure.

### Authority

Chapter 12 of the Michigan Insurance Code, MCL 500.1201 *et seq.*, regulates the activity of persons soliciting, selling or negotiating insurance products. Pursuant to the Code:

- (j) "Negotiate" means the act of conferring directly with or offering advice directly to a purchaser or prospective purchaser of a particular contract of insurance concerning any of the substantive benefits, terms, or conditions of the contract, provided that the person engaged in that act either sells insurance or obtains insurance from insurers for purchasers...
- (k) "Sell" means to exchange a contract of insurance by any means, for money or its equivalent, on behalf of an insurance company...
- (l) "Solicit" means attempting to sell insurance or asking or urging a person to apply for a particular kind of insurance from a particular company.

Travel agents who sell or otherwise suggest travel insurance to clients may perform all of these activities.

The Code grants to the Commissioner the ability to recognize travel as an additional limited line of authority. Sections 1201(h)(viii) and (ix), MCL 500.1201(h)(viii) and (ix), provide that the Commissioner may designate as a limited line:

- (viii) Any other miscellaneous insurance described in section 624(1)(i);
- (ix) Any other line of insurance that the commissioner considers necessary to recognize for the purposes of complying with section 1206a(5).

Section 500.624(1)(i) includes in the definition of miscellaneous: "By and with the consent of the commissioner, insurance against any other hazards of the casualty

nature not prohibited by laws of this state nor exclusively delegated to any other class or kind of insurer.” Section 1206a(5) enables broad reciprocity between states when acknowledging a limited line of authority. It states:

Notwithstanding any other provision of this chapter, a person licensed as a limited line credit insurance or other type of limited lines insurance producer in his or her home state shall receive a nonresident limited lines insurance producer license, pursuant to subsection (1), granting the same scope of authority as granted under the license issued by the producer’s home state. For the purposes of this subsection, limited lines insurance is any authority granted by the home state that restricts the authority of the license to less than the total authority prescribed in the associated major lines under section 1206(1)(a) to (f).

Additionally, MCL 500.1204(2)(a) provides that the Commissioner may waive the applicable examination or program of study requirements for a person who applies for a limited license as designated by the Commissioner. Further, a person applying for a non-resident license is not required to take prelicensure education or the examination if they are properly licensed in the same line of authority in their home state. MCL 500.1206b(1) states:

(1) An individual who applies for an insurance producer license in this state who was previously licensed for the same qualification in another state is not required to complete any prelicensing education or examination.

With respect to the payment of compensation, when Michigan adopted provisions of the NAIC Producer Licensing Model Act, 228 PA 2001, one change added Section 1240(4) to the Code to specifically allow agents and companies to pay “commission, service fees or other valuable consideration” as long as the person or entity being paid does not “sell, solicit or negotiate insurance.”

In determining whether a referral rises to the level of a solicitation, Michigan and other states have historically analyzed certain characteristics of the transaction including whether the amount of the referral fee paid is contingent upon the ultimate sale of insurance or the volume of insurance sold. This is explained on OFIR’s website as follows:

#### 7. Referral Fees

- Q. May an unlicensed individual provide a list of referrals to a licensed producer for a fee?
- A. Yes, so long as payment of the referral fee is not contingent upon a referral applying for or purchasing a policy.

Thus, furnishing leads or prospects does not rise to the level of "solicitation" unless payment is contingent upon application for or purchase of insurance. Payment may be made in the form of commission, service fees or other valuable consideration for leads or prospects.

Finally, Michigan's anti-rebate provision, Section 2066 of the Uniform Trade Practices Act of the Code, MCL 500.2066, broadly prohibits rebates and illegal inducements that are not specified in the contract. It states:

No insurer, by itself or any other party, and no insurance agent or solicitor, personally or by any other party, transacting any kind of insurance business shall offer, promise, allow, give, set off or pay, directly or indirectly, any rebate of, or part of, the premium payable on the policy or on any policy, or agent's commission thereon, or earnings, profit, dividends or other benefit founded, arising, accruing or to accrue thereon, or therefrom, or any other valuable consideration or inducement to or for insurance, on any risk in this state now or hereafter to be written, which is not specified in the contract of insurance...

### Discussion

Full licensure is unnecessary for a limited line product such as travel and can hamper the employment and operation of otherwise effective agents who serve a market need. In addition, Michigan continues to take action to expand reciprocity with other states in the licensure of insurance producers and recognizes that other states do not require full property and casualty licensure for travel agents. The National Association of Insurance Commissioners, NAIC, also recognizes that the offering of travel products does not require full licensure and recommends that travel be offered as a limited line of authority whenever selling, negotiating or soliciting is involved.

Not all activities of travel agents in connection with travel insurance require licensure. For example:

1. A person buys a travel package from a travel agency and seeks travel insurance independently from their insurance producer, an insurance agency or directly from an insurer. The travel agent or agency does not make a referral or receive a referral fee or commission. In this scenario, the travel agent or agency would not need to be licensed because they are not negotiating, soliciting, or selling an insurance product.
2. A travel agent sells a travel package and refers the customer to an insurance producer, agency, or insurer to purchase insurance, either by providing customer contact information to the producer, agency or insurer, or

by providing the customer with the producer, agency or insurer contact information. This may involve verbally advising the customer that insurance is available and handing out a brochure or web address with the insurance producer, agency or insurer contact information. If the customer asks questions about the product, the travel agent refers the customer to the licensed insurance producer, agency or insurer. The travel agent and/or travel agency receive a referral fee from the insurance producer, agency or insurer for referring the customer. The referral fee is not based on whether the customer purchases insurance, how much insurance is purchased, or on a predetermined volume of referrals. In this scenario, the travel agency and travel agent would not need to be licensed because they are merely referring a customer to a licensee; they are not soliciting the sale of an insurance product as defined in MCL 500.1201(m).

3. A travel agent sells a travel package and advises the customer of the risks involved in travel and of the insurance products available to mitigate risk. This may involve verbally advising the customer that insurance is available and handing out a brochure with product and purchase price information for predetermined packages (i.e. Platinum, Gold, Silver, Bronze coverage) sold by predetermined insurers. If the customer asks questions about the product the travel agent addresses the questions. The travel agent may assist the customer in completing a hard copy or electronic application, collect the fee for insurance (generally along with the fee for the travel package) and submit the customer's application and fee to the insurer. The insurer approves or denies the insurance and issues the policy to the customer either via U.S. mail or through the travel agency/agent. The travel agent and/or agency receive a commission for the sale. In this scenario, the travel agent and travel agency would need to be licensed as insurance producers because they are negotiating, soliciting, and selling an insurance product.

Findings:

1. The intent of producer licensure requirements is to protect the safety and welfare of the general public. This is done by ensuring a licensed person has entry-level competence and by monitoring licensed producer behavior once a license has been issued.
2. Recognizing "Travel Insurance" as a limited line of authority, along with the waiver of prelicensure education and examination, is consistent with the National Association of Insurance Commissioners (NAIC) Uniform Licensing Standards and in conformance with reciprocity considerations.
3. Sections 1201(h)(viii) and (ix) of the Michigan Insurance Code provide the Commissioner with the authority to designate "Travel Insurance" as a limited line of authority.

4. Section 1204(2)(a) provides the Commissioner with the authority to waive the prelicensure education and examination for a limited line of authority.
5. The nature and scope of knowledge needed to sell travel insurance is narrow. The waiver of prelicensure education and examination as prerequisites to licensure to sell travel insurance does not pose a threat to the safety and welfare of the general public.

**THEREFORE, IT IS ORDERED** that "Travel Insurance" is recognized as a limited line of authority and the NAIC definition of "Travel Insurance" is adopted as follows:

"Travel Insurance" means insurance coverage for personal risks incident to planned travel, including but not limited to:

- a. Interruption or cancellation of a trip or event;
- b. Loss of baggage or personal effects;
- c. Damages to accommodations or rental vehicles;
- d. Sickness, accident, disability or death occurring during travel.

Travel insurance does not include major medical plans, which provide comprehensive medical protection for travelers with trips lasting 6 months or longer, including for example, those working overseas as an expatriate or military personnel being deployed.

**IT IS ALSO ORDERED** that the prelicensure education and examination for applicants applying for a producer license to sell travel insurance is waived.



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R. Kevin Clinton  
Commissioner